

VIRGINIA ACTS OF ASSEMBLY -- 2022 RECONVENED SESSION

CHAPTER 775

An Act to amend and reenact § 32.1-330.2 of the Code of Virginia, relating to Medicaid; program information; accessibility.

[H 987]

Approved April 27, 2022

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-330.2 of the Code of Virginia is amended and reenacted as follows:

§ 32.1-330.2. Medicaid managed care programs; program information documents; plain language required.

A. Whenever medical assistance services pursuant to this chapter are furnished through managed care programs, the As used in this section, "program information" means all forms of communication that (i) are provided to any person who is an applicant for or a recipient of medical assistance services provided by the Commonwealth pursuant to Titles XIX and XXI of the Social Security Act and (ii) describe eligibility requirements, available medical assistance services, and the rights and responsibilities of recipients of medical assistance services provided by the Commonwealth pursuant to Titles XIX and XXI of the Social Security Act.

B. The Board of Medical Assistance Services shall require that all program information documents furnished recipients covered thereunder shall be written (i) communicated in nontechnical, readily understandable, plain language, using words of common, everyday usage and (ii) made available in a manner that is timely and accessible to (a) individuals with limited English proficiency through the provision of language access services, including oral interpretation and written translations, and (b) individuals with disabilities through the provision of auxiliary aids services, when doing so is a reasonable step to providing meaningful access to health care coverage. A person that makes program information available may consider resources, including staffing, available to such person and the cost of responding to requests for language access or auxiliary aids services in determining the reasonableness of making program information available pursuant to this subsection.

C. Language access services and auxiliary aids services provided to ensure program information is accessible to individuals with limited English proficiency and individuals with disabilities shall be provided without charge to such individuals. Information regarding how to receive language access services and auxiliary aids services shall be included with program information documents on a website maintained by the Department and on the website of every state or local government agency or state agency contractor that provides program information.

B. Each sponsor or administrator of any such managed care program D. Every person that provides program information shall use an objective readability measure approved by the Department to test the readability of its program information documents by use of the Flesch Readability Formula, as set forth in Rudolf Flesch, The Art of Readable Writing (1949, as revised 1974), and no program information document shall be used unless it achieves a Flesch total readability score of forty or more. The requirements of this subsection shall not apply to language which that is mandated by federal or state laws, regulations, or agencies.

C. E. All program information documents within the scope of this section, and all amendments thereto, shall be filed with made available for review upon the request of the Department of Medical Assistance Services in advance of their use and distribution, accompanied by certificates setting forth the Flesch scores and certifying compliance with the requirements of this section. Any program information document which that is exempt from the requirements of subsection B shall be accompanied by a documentation of the federal or state law, regulation, or agency mandate that authorizes the exemption.

D. For the purpose of this section, the term "program information documents" means all forms, brochures, handbooks or other documentation (i) provided recipients covered under Medicaid managed care programs, and (ii) describing the programs' medical care coverages and the rights and responsibilities of recipients covered thereunder. Further, the term "recipient" shall include potential recipients and recipients.